



House of Representatives

File No. 704

General Assembly

February Session, 2008

(Reprint of File No. 293)

Substitute House Bill No. 5330
As Amended by House Amendment Schedule
"A"

Approved by the Legislative Commissioner
April 21, 2008

AN ACT CONCERNING MUNICIPAL UTILITIES.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 7-233q of the general statutes is repealed and the
2 following is substituted in lieu thereof (*Effective from passage*):

3 (a) All purchases for supplies, materials or equipment to be made in
4 excess of twenty-five thousand dollars shall be submitted for
5 competitive bid provided that more than one source of such supplies,
6 materials or equipment is available, except this [section] subsection
7 shall not apply to any project or projects in which a municipal electric
8 energy cooperative is an owner of a portion if the project itself is not
9 required to be subject to competitive bidding.

10 (b) (1) Notwithstanding subsection (a) of this section, any contracts
11 to be entered into by a cooperative created pursuant to this chapter or
12 any project in which such cooperative has an interest or any joint
13 venture or partnership thereof may be entered into as the result of
14 either negotiation, request for proposals, open-bid or sealed-bid
15 method of procurement. In determining the type of procurement

16 method it deems most prudent, the cooperative may consider the
17 scope of work, the management complexities associated therewith, the
18 extent of current and future technological development requirements
19 and the best interests of the cooperative and its members and
20 participants. The cooperative shall determine the terms and conditions
21 of such contracts and the fees or other compensation to be paid
22 pursuant to such contracts.

23 (2) The entry into any contract resulting from negotiation or the
24 conduct of a request for proposals pursuant to subdivision (1) of this
25 subsection may be by resolution or by the terms of written policies
26 adopted by the cooperative at the option of the governing body of said
27 cooperative. If the cooperative elects to proceed by negotiation or
28 request for proposals for the procurement of any such contract by the
29 terms of written policies adopted by the cooperative, the contract and
30 the factual basis for the method of procurement shall be recorded and
31 open for public inspection immediately after the award of such
32 contract.

33 Sec. 2. Subsection (b) of section 7-233e of the general statutes is
34 repealed and the following is substituted in lieu thereof (*Effective from*
35 *passage*):

36 (b) A municipal electric energy cooperative created in the manner
37 provided in this chapter shall constitute a public body corporate and
38 politic, and in furtherance of its purpose of providing facilities for the
39 generation and transmission of electric power such municipal electric
40 energy cooperative shall be deemed to be exercising an essential
41 governmental function and shall have the following powers, to wit:

42 (1) To adopt and have a common seal and to alter the same;

43 (2) To sue and be sued;

44 (3) To contract and be contracted with;

45 (4) To plan, acquire, construct, reconstruct, operate, maintain,

46 repair, extend or improve one or more projects within or without the
47 state; or to acquire any interest in or any right to capacity of such a
48 project and to act as agent, or designate one or more of the other
49 participants in such project to act as agent, for all the participants in
50 such project in connection with the planning, acquisition, construction,
51 reconstruction, operation, maintenance, repair, extension or
52 improvement of such project;

53 (5) To investigate the desirability of and necessity for additional
54 sources and supplies of electric power, and to make such studies,
55 surveys and estimates as may be necessary to determine the feasibility
56 and cost of any such additional sources and supplies of electric power;

57 (6) To cooperate with private electric utilities, member and
58 nonmember municipal electric utilities and other public or private
59 electric power entities, within and without the state, or with any
60 person without the state, in the development of such sources and
61 supplies of electric power;

62 (7) To procure from the United States of America or any agency or
63 instrumentality thereof, or from any state or agency or instrumentality
64 thereof, any consents, authorizations or approvals which may be
65 requisite to enable any project within its powers to be carried forward;

66 (8) To do and perform any acts and things authorized by the act
67 under, through or by means of its cooperative utility board, officers,
68 agents or employees;

69 (9) To acquire, hold, use and dispose of its income, revenues, funds
70 and moneys;

71 (10) To acquire, own, hire, use, operate and dispose of personal
72 property;

73 (11) To acquire, own, use, lease, operate and dispose of real
74 property and interests in real property, and to make improvements
75 thereon;

76 (12) To grant the use, by lease or otherwise, and to make charges for
77 the use, of any property or facility owned or controlled by it;

78 (13) To borrow money and to issue its negotiable bonds or notes,
79 and to enter into any agreements with the purchasers or holders of
80 such bonds or notes or with others for their benefit;

81 (14) Subject to any agreement with bondholders or noteholders, to
82 invest moneys of the municipal cooperative not required for
83 immediate use, including proceeds from the sale of any bonds or notes,
84 in such obligations, securities and other investments as the cooperative
85 utility board shall deem prudent and in accordance with the laws of
86 the state regarding the investment of public moneys;

87 (15) To exercise the right of eminent domain, subject to the
88 limitations contained herein;

89 (16) To fix and determine the location and character of, and all other
90 matters in connection with, any and all projects it may be authorized to
91 acquire, hold, establish, effectuate, operate or control;

92 (17) To contract with any electric utility, any member or nonmember
93 municipal electric utility, any public or private electric power entity
94 within or without the state, or any person without the state, for the
95 sale, exchange or transmission of electric power or energy generated
96 by any project, or any interest therein or any right to capacity thereof,
97 on such terms and for such period of time as the cooperative utility
98 board shall determine;

99 (18) To purchase, sell, exchange or transmit electric power and
100 energy within and without the state, to any electric utility, any
101 member or nonmember municipal electric utility or any other public or
102 private electric power entity, or any person without the state; and to
103 enter into agreements with respect to such purchase, sale, exchange, or
104 transmission to any electric utility, any member or nonmember
105 municipal electric utility or any other public or private electric power
106 entity; as one means of implementing the power granted by this

107 [subsection (18)] subdivision, a municipal electric energy cooperative,
108 if its cooperative utility board shall so determine, may enter into or
109 become a participant in the New England Power Pool; and to acquire,
110 own, hold and dispose of stock or other ownership interests in, or
111 evidences of indebtedness of, any corporation or business entity which
112 constructs electric power generation or transmission facilities or
113 generates, produces, transmits, purchases, sells or exchanges electric
114 power and energy to, or insures the liabilities of, public or private
115 electric power entities located within or without the state, provided the
116 outstanding stock of such corporation is owned in whole or in part by
117 such public or private electric power entities;

118 (19) To procure insurance against any losses in connection with its
119 property, operations or assets in such amounts and from such insurers
120 as the cooperative utility board deems desirable;

121 (20) To contract for and to accept any gifts or grants or loans of
122 funds or property or financial or other aid in any form from the United
123 States of America or any agency or instrumentality thereof, or from
124 any other source, and to comply, subject to the provisions of this
125 chapter, with the terms and conditions thereof;

126 (21) To mortgage, or otherwise hypothecate, any or all of its
127 property or assets to secure the payment of its bonds, notes or other
128 obligations;

129 (22) To submit to arbitration any disputes with others or among its
130 members;

131 (23) To produce electric power by the use of cogeneration
132 technology or renewable fuel resources, as defined in section 16-1 of
133 the 2008 supplement to the general statutes;

134 (24) To contract for the purchase or exchange of electricity produced
135 by a person using cogeneration technology or renewable fuel
136 resources, as defined in section 16-1 of the 2008 supplement to the
137 general statutes, or for the sale or exchange of electricity produced by

138 the municipal cooperative to such person, provided such purchase,
139 sale or exchange is subject to the rates and conditions of service
140 established in accordance with section 16-243a of the 2008 supplement
141 to the general statutes;

142 (25) To provide in any agreement executed in connection with a
143 project by or among a municipal cooperative and other participants in
144 such project that, if one or more of such participants defaults in its
145 obligations under such agreement including, without limitation, the
146 payment of principal or interest on their indebtedness issued with
147 respect to such project, the municipal cooperative and the other
148 nondefaulting participants, if any, shall be required to pay such
149 obligations, including the principal of and the interest on such
150 indebtedness, for which the defaulting participant or participants were
151 to have paid, upon such terms and conditions and with such
152 limitations as the cooperative utility board may determine;

153 (26) To guarantee, in connection with any project, the punctual
154 payment of the principal of and interest on the indebtedness or other
155 contractual obligations of any of the participants in such project;

156 (27) (A) To enter into agreements with any entity to receive or
157 procure the supply, or the prepayment of the supply, of natural gas for
158 the sole benefit of its member, the City of Norwich Department of
159 Public Utilities, a municipal gas utility, provided (i) such supply, or
160 prepayment of supply, is consumed or used by said utility or by any
161 retail customer of said utility entirely within the geographic
162 boundaries of the city of Norwich or the town of Preston, and (ii) no
163 part of such supply, or prepayment of supply, shall be consumed or
164 used within or transported to any other municipality or utility,
165 territory, land held in trust by the United States on behalf of a Native
166 American tribe or land located within a Native American reservation
167 or other jurisdiction;

168 (B) No power granted to a municipal cooperative pursuant to this
169 subdivision shall be exercised so as to impair any existing right, power

170 or privilege of any gas company, as defined in section 16-1;

171 [(27)] (28) To exercise and perform all or part of its power and
172 functions for the sole purpose of purchasing, selling, exchanging or
173 transmitting electric power and energy on a wholesale basis, as
174 provided in this chapter, through one or more wholly owned or partly
175 owned corporations or other business entities; and

176 [(28)] (29) To exercise all other powers not inconsistent with the
177 state Constitution or the United States Constitution, which may be
178 reasonably necessary or appropriate for or incidental to the
179 effectuation of its authorized purposes or to the exercise of any of the
180 foregoing powers, and generally to exercise in connection with its
181 property and affairs, and in connection with property within its
182 control, any and all powers which might be exercised by a natural
183 person or a private corporation in connection with similar property
184 and affairs.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>from passage</i>	7-233q
Sec. 2	<i>from passage</i>	7-233e(b)

The following fiscal impact statement and bill analysis are prepared for the benefit of members of the General Assembly, solely for the purpose of information, summarization, and explanation, and do not represent the intent of the General Assembly or either chamber thereof for any purpose:

OFA Fiscal Note

State Impact:

Agency Affected	Fund-Effect	FY 09 \$	FY 10 \$
Various State Agencies	GF - Savings	Potential Minimal	Potential Minimal

Note: GF=General Fund

Municipal Impact:

Municipalities	Effect	FY 09 \$	FY 10 \$
Connecticut Municipal Electric Energy Cooperative	Savings	Potential	Potential

Explanation

This bill expands the powers of the Connecticut Municipal Electric Energy Cooperative (CMEEC) and gives CMEEC more options in procuring supplies, materials, and equipment. CMEEC is responsible for procuring power and financing and building generating resources for its members. The members consist of various municipalities. There is a potential savings to municipalities associated with this bill.

House "A" (LCO 4377) allows the city of Norwich Department of Public Utilities (a member of CMEEC), to supply natural gas to retail customers within the geographic boundaries of the city of Norwich or the town of Preston. As the state is a retail customer in this area, there is a potential minimal savings for the state associated with this amendment.

The Out Years

The annualized ongoing fiscal impact identified above would continue into the future subject to inflation.

OLR Bill Analysis**sHB 5330 (as amended by House "A")******AN ACT CONCERNING MUNICIPAL UTILITIES.*****SUMMARY:**

This bill expands the powers of a municipal electric energy cooperative. It also gives a cooperative more options in procuring supplies, materials, and equipment. The Connecticut Municipal Electric Energy Cooperative (CMEEC) is currently the only such cooperative in Connecticut.

*House Amendment "A" narrows the circumstances under which a cooperative can enter into agreements regarding natural gas supply.

EFFECTIVE DATE: Upon passage

POWERS

The bill allows a cooperative to make agreements with any entity to receive or procure the supply, or prepay for the supply of, natural gas for the sole benefit of the cooperative's members, the city of Norwich Department of Public Utilities, or a municipal gas utility. The gas must be used or consumed by the utility or by its retail consumers entirely within the city of Norwich or the town of Preston. The gas cannot be consumed or used in, or transported to (1) any other municipality or utility, (2) land held in trust by the United States on behalf of a Native American tribe, or (3) land located in a Native American reservation or other jurisdiction.

PROCUREMENT OPTIONS

Under current law, a cooperative must follow competitive bidding procedures to purchase supplies, materials, and equipment worth

more than \$25,000, unless there is only one source for the supplies or if a cooperative is a part owner of the affected project. The bill additionally exempts from competitive bidding contracts for projects in which a cooperative has an interest or if a cooperative is involved as a partner or joint venture. For these projects, the bill allows a cooperative to enter contracts following negotiations, requests for proposals (RFPs), or open or sealed bid procurement. In determining which procurement method is most prudent, a cooperative can consider the scope of work and associated management complexities; the extent of current and future technological development requirements; and the best interests of the cooperative, its members, and its participants. A cooperative must determine the terms and conditions of the contracts and the fees or other compensation to be paid under them.

Under the bill, a cooperative may enter into a contract following an RFP by resolution or by the terms of its written policies, at the option of its governing body. If the cooperative chooses to proceed by negotiations or RFP under written policies adopted by the governing body, the contract and the factual basis for its choice of procurement method must be recorded and open for public inspection immediately after the cooperative awards the contract.

BACKGROUND

CMEEC

CMEEC is responsible for procuring power and financing and building generating resources for its members. The members are: Groton Utilities, Jewett City Department of Public Utilities, Norwich Public Utilities, and the Second and Third Taxing Districts of Norwalk (South Norwalk and East Norwalk, respectively). CMEEC also provides power for participating utilities (the Wallingford Department of Public Utilities, Bozrah Light and Power, and the Mohegan Tribal Authority).

COMMITTEE ACTION

Energy and Technology Committee

Joint Favorable Substitute

Yea 21 Nay 0 (03/11/2008)

Planning and Development Committee

Joint Favorable

Yea 15 Nay 0 (04/14/2008)